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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 RENEE JEANEAN MCCARTY,

No. C 06-04712 CRB

12 Plaintiff,

ORDER

13 v.

14 CALIFORNIA DEPARTMENT OF
15 CORRECTIONS,

16 Defendant.
_____ /

17
18 Petitioner, who is in the custody of the California Department of Corrections, has filed
19 a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner was convicted
20 of battery and two counts of petty theft, and she received an on-bail enhancement. The
21 events giving rise to these convictions occurred in Lake County, California. Accordingly,
22 venue is proper. See Local Rule 2254-3.

23 This Court may entertain a petition for a writ of habeas corpus “in behalf of a person
24 in custody pursuant to the judgment of a State court only on the ground that he is in custody
25 in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2254(a);
26 Rose v. Hodges, 423 U.S. 19, 21 (1975). A district court shall “award the writ or issue an
27 order directing the respondent to show cause why the writ should not be granted, unless it
28 appears from the application that the applicant or person detained is not entitled thereto.” 28
U.S.C. § 2243. Summary dismissal is appropriate only where the allegations in the petition
are vague or conclusory, palpably incredible, or patently frivolous or false. Hendricks v.

1 Vasquez, 908 F.2d 490, 491 (9th Cir. 1990) (quoting Blackledge v. Allison, 431 U.S. 63, 75-
2 76 (1977)).

3 The Court has reviewed the petition and finds good cause to proceed. Accordingly,

4 1. The Clerk of the Court shall serve by certified mail a copy of this Order
5 and the petition and all attachments thereto upon the respondents and the respondents'
6 counsel, the Attorney General of the State of California. The Clerk shall also serve a copy of
7 this Order on the petitioner's counsel.

8 2. Respondents shall file with this Court and serve upon the petitioner,
9 within sixty (60) days of the issuance of this Order, an answer conforming in all respects to
10 Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas
11 corpus should not be issued. Respondent shall file with the answer a copy of all portions of
12 the state trial and appellate record that have been transcribed previously and that are relevant
13 to a determination of the issues presented by the petition.

14 3. If the petitioner wishes to respond to the answer, he shall do so by filing
15 a traverse with the court and serving it upon the respondents within thirty (30) days of his
16 receipt of the answer.

17 **IT IS SO ORDERED.**

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19 Dated: October 3, 2006



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE